

Assembly Bill No. 854

Passed the Assembly September 10, 2015

Chief Clerk of the Assembly

Passed the Senate September 9, 2015

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2015, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 42920.5, 42921, 42923, and 42924 of, to add Section 42926 to, to repeal Section 42922 of, and to repeal and add Sections 42920 and 42925 of, the Education Code, relating to educational services, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 854, Weber. Educational services: pupils in foster care.

(1) Existing law requires 6 specified foster children services program sites to receive a certain allowance that is required to be used exclusively for foster children services. Existing law authorizes any county office of education, or consortium of county offices of education, in addition to the 6 specified program sites, to apply to the Superintendent of Public Instruction for grant funding, to the extent the funds are available, to operate an education-based foster youth services program to provide educational and support services for foster children who reside in a licensed foster home or county-operated juvenile detention facility, as specified.

This bill would instead establish, commencing with the 2015–16 fiscal year and for each fiscal year thereafter, the Foster Youth Services Coordinating Program, to be administered by the Superintendent, as specified, to coordinate and ensure that local educational agencies within its jurisdiction are providing services to foster youth pupils pursuant to a foster youth services coordinating plan with the purpose of ensuring positive educational outcomes. As part of the program, the bill would authorize a county office of education, or consortium of county offices of education, to apply to the Superintendent for grant funding, to the extent funds are available, to operate an education-based foster youth services coordinating program to provide educational support for pupils in foster care. The bill would require county offices of education and consortia of county offices of education, as a condition of receiving funds under the program, to work with local educational agencies within the county or consortium of counties, to coordinate services to ensure that, for the 2015–16 and 2016–17 fiscal years, the level

of direct services provided to support foster youth pupils is not less than what was provided in the 2014–15 fiscal year through the previous program. The bill would require the Superintendent, on or before October 31, 2015, to develop an allocation formula to determine the allocation amounts for which each county office of education or consortium of county offices of education is eligible and, within 30 days, to submit the allocation formula to appropriate policy and fiscal committees of the Legislature for review and to the Department of Finance for approval, as specified.

(2) Existing law also requires each foster youth services program to identify at least one person as the foster youth educational services coordinator, if sufficient funds are available, and assigns the foster youth educational services coordinator certain responsibilities, and requires him or her to facilitate the provision of educational services, as provided, to certain foster youth.

This bill would instead require each foster youth services coordinating program to identify the foster youth educational services coordinator to facilitate the provision of educational support to any pupil in foster care residing or attending school in the county or consortium of counties, as specified. The bill would require each foster youth services coordinating program, as a condition of receiving funding, to develop and implement a foster youth services coordinating plan, as specified, for purposes of establishing guiding principles and protocols to provide supports for foster care pupils aligned with certain population priorities. The bill would require each foster youth services program to establish a local interagency Executive Advisory Council, as provided.

(3) Existing law requires the Superintendent, by February 15 of each even-numbered year, to report to the Legislature and the Governor on the foster children services provided by school districts, as specified, and requires each school district providing foster children services to report to the Superintendent, by January 1 of each even-numbered year, any information the Superintendent may require for purposes of preparing the report.

This bill would instead require each county office of education and consortium of county offices of education providing a foster youth services coordinating program to report to the Superintendent, by May 15 of each even-numbered year, any information the Superintendent may require and that is accessible

to the foster youth services coordinating program for purposes of preparing the report that would instead be submitted to the appropriate fiscal and policy committees of the Legislature and the Governor by July 1 of each even-numbered year. The bill would require the report to include different information, including aggregate educational outcome data, as specified.

(4) Existing law provides that any school district which provides educational services for foster children pursuant to the provisions above shall receive funding in any fiscal year for those services only by such sums as may be specifically appropriated by the annual Budget Act of the Legislature for that fiscal year for support of those school-centered foster children services which provide program effectiveness and potential cost savings to the state.

This bill would repeal those provisions and would instead provide that the Foster Youth Services Coordinating Program shall only be operative if funding is provided for its purposes in the annual Budget Act or another enacted statute.

(5) This bill would authorize a school district that determines that it is unable to provide needed tutoring, mentoring, and counseling to enter into a temporary agreement with the foster youth services coordinating program to provide those services, as specified.

(6) This bill would declare that it is to take effect immediately as an urgency statute.

The people of the State of California do enact as follows:

SECTION 1. Section 42920 of the Education Code is repealed.

SEC. 2. Section 42920 is added to the Education Code, to read:
42920. The Legislature finds and declares all of the following:

(a) The Foster Youth Services (FYS) program has been a successful program that supports the educational achievement of pupils in foster care. This success has contributed to landmark California education finance reform that prioritizes the educational needs of pupils in foster care.

(b) The county office of education FYS program is uniquely situated to support interagency collaboration and capacity building, both at the system and individual pupil level, focused on improving educational outcomes for pupils in foster care. This is a key component to the successful implementation of the local control

funding formula (LCFF). The FYS program should support and facilitate such collaboration and capacity building while preserving the ability to provide direct services such as tutoring, mentoring, counseling, transition, school-based social work, and emancipation assistance when there are identified gaps in service at the local level and the local Executive Advisory Council establishes that these services are needed and aligned with local control and accountability plan priorities.

(c) Pupils in foster care will benefit from increased levels of supports and services as a result of the FYS program supporting implementation of the LCFF for pupils in foster care.

(d) Pupils in foster care represent one of the most vulnerable and academically at-risk pupil groups enrolled in California schools. The academic status of pupils in foster care is often profoundly impacted by the foster care system in which many pupils in foster care experience multiple placements with an average frequency of one placement change every six months. Due to this movement, pupils in foster care lose an average of four to six months of educational attainment with each move. Therefore, it is essential to recognize, identify, and plan for the critical and unique educational needs of pupils in foster care.

(e) A high percentage of pupils in foster care are working substantially below grade level, and over one-half of the pupils in foster care are retained at least one year in the same grade level. Pupils in foster care earn lower grades and achieve lower scores on standardized achievements tests in reading and mathematics, have lower levels of engagement in school, and are half as likely as pupils not in foster care to be involved in extracurricular activities. The long-term consequences of poor academic experiences are significant. Pupils in foster care are twice as likely as pupils not in foster care to drop out of school before graduation and only 45 percent of pupils in foster care have graduated from high school at the time of emancipation. Foster youth are similarly underrepresented in college enrollment rates and dramatically underperform their peers in relation to college completion. Pupils in foster care are also subject to disproportionate levels of disciplinary measures, including suspension and expulsion. It is imperative that California close the foster youth achievement gap so that pupils in foster care can realize their full potential, reach

their college and career goals, and become independent, productive members of society.

(f) Foster youth are an especially vulnerable pupil population, as they are often also members of other underserved pupil groups. In 2013, the demographic data of pupils in foster care in California were as follows:

(1) The largest ethnic group amongst pupils in foster care was Hispanic, with nearly half of the population.

(2) African American and Native American pupils continue to be disproportionately represented in the child welfare system, as researchers found that 26 percent of pupils in foster care were African American despite African Americans only accounting for 7 percent of the pupil population in California, and 2 percent of pupils in foster care were Native American despite Native Americans only accounting for 1 percent of the pupil population in California.

(3) Nearly one in five pupils in foster care had special education needs, which is over twice the rate of the statewide pupil population.

(4) More than 1 in 10 pupils in foster care were English learners.

(5) A significant number of youth in foster care identify as lesbian, gay, bisexual, transgender, queer, questioning, or gender nonconforming.

(g) Compounded by the research that indicates that there is a need for California to close the achievement gap between specific ethnic pupil populations and White pupils, addressing the foster youth achievement gap will further efforts that support education equity for all pupils.

(h) Given their current academic status, pupils in foster care are more likely to achieve their full potential when they are provided services and programs designed to meet their particular needs, including, but not limited to, supplemental instruction, counseling, tutoring, support services offered to lesbian, gay, bisexual, transgender, queer, questioning, and gender nonconforming youth, and other assistance relevant to their experience.

(i) Policies and laws addressing the educational rights of pupils in foster care must be implemented so that pupils in foster care are immediately enrolled in school, provided access to meaningful opportunities to meet state pupil academic achievement standards to which all pupils are held, provided access to a rigorous

curriculum, adequately prepared to enter postsecondary education, and afforded the academic resources, services, and extracurricular and enrichment activities made available to other pupils enrolled in California's public schools, including, but not limited to, interscholastic sports administered by the California Interscholastic Federation. In fulfilling their responsibilities to these pupils, educators, county placing agencies, caregivers, advocates, and the juvenile courts will work together to ensure that each pupil is placed in the least restrictive educational environment.

(j) Foster youth services programs provide pupils in foster care needed educational support and are a state priority.

SEC. 3. Section 42920.5 of the Education Code is amended to read:

42920.5. (a) Commencing with the 2015–16 fiscal year, and each fiscal year thereafter, the Foster Youth Services Coordinating Program, administered by the Superintendent, is hereby established to provide supplemental funding to county offices of education, or a consortium of county offices of education, to coordinate and ensure that local educational agencies within its jurisdiction are providing services to foster youth pupils pursuant to the plan established in Section 42921, with the purpose of ensuring positive educational outcomes.

(b) A foster youth services coordinating program shall meet minimum standards established by the Superintendent to ensure the provisions of Section 42921 are implemented, and shall be required to meet those minimum standards annually as a condition of continued funding.

(c) As a condition of receiving funds, a county office of education, or a consortium of county offices of education, shall work with the local educational agencies within the county or consortium of counties, and shall coordinate services to ensure that, for the 2015–16 and 2016–17 fiscal years, the level of direct services provided to support foster youth pupils is not less than what was provided in the 2014–15 fiscal year through the foster youth services program established pursuant to Section 42921, as it read on June 30, 2015. In meeting this requirement, services for foster youth pupils may be provided through one or any combination of state funding, including, but not limited to, the local control funding formula, or federal, local, or other funding.

(d) For the 2015–16 fiscal year, the allocation amount for which any county office of education or consortium of county offices of education is eligible shall not be less than the amount allocated to that county or consortium in the 2014–15 fiscal year, including the allocation amounts of school districts identified in Section 42920, as it read on June 30, 2015. This subdivision applies only if a county office of education or consortium of county offices of education elects to apply for grant funding pursuant to Section 42921.

(e) On or before October 31, 2015, the Superintendent shall develop an allocation formula to determine the allocation amounts for which each county office of education or consortium of county offices of education is eligible. The Superintendent, within 30 days of the developing the allocation formula, shall submit the allocation formula to the appropriate policy and fiscal committees of the Legislature and the Department of Finance for review, and the Department of Finance shall approve the allocation formula within 30 days of submission by the Superintendent. The allocation formula may be revised annually upon submission to the appropriate policy and fiscal committees of the Legislature and approval by the Department of Finance within 30 days of submission by the Superintendent. The Superintendent may include additional criteria in the allocation formula, but shall apply, at a minimum, the following criteria:

- (1) The number of pupils in foster care in the county.
- (2) The number of school districts in the county.

(f) For purposes of this chapter, “local educational agency” means a county office of education, school district, or charter school.

SEC. 4. Section 42921 of the Education Code is amended to read:

42921. (a) A county office of education, or consortium of county offices of education, may elect to apply to the Superintendent for grant funding, to the extent funds are available, to operate an education-based foster youth services coordinating program to provide educational support for pupils in foster care.

(b) Each foster youth services coordinating program operated pursuant to this chapter, if sufficient funds are available, shall have at least one person identified as the foster youth educational services coordinator. The foster youth educational services

coordinator shall facilitate the provision of educational support pursuant to subdivisions (d) and (e) to any pupil in foster care residing or attending school in the county or consortium of counties.

(c) For purposes of this chapter, a pupil in foster care means a foster youth, as defined in paragraph (b) of Section 42238.01, or a foster child who is detained in a county-operated juvenile detention facility.

(d) It is the intent of the Legislature that pupils in foster care with the greatest need for services be identified as the first priority for foster youth services coordinating programs. Priority shall be given to pupils who are living in out-of-home placements.

(e) As a condition of receiving funds pursuant to this chapter, each foster youth services coordinating program operated by a county office of education or a consortium of county offices of education pursuant to this chapter shall develop and implement a foster youth services coordinating plan for purposes of establishing guiding principles and protocols to provide supports for foster care pupils aligned with the population priorities established in subdivision (f). The plan shall include, to the extent possible, but not be limited to, the following:

(1) (A) A description of how the program will establish ongoing collaboration with local educational agencies, county child welfare agencies, and county probation departments, to determine the proper educational placement of the foster youth. This includes, but is not limited to, the following:

(i) Building the capacity of county agencies, school districts, and community organizations to better support the educational success of pupils in foster care.

(ii) Facilitating collaboration between county agencies, school districts, and community organizations to ensure coordinated and nonduplicative service delivery and to ensure pupils in foster care receive the educational supports and services they need to succeed in school. This may include, but is not limited to, education emancipation services such as support with transitions to postsecondary education or career technical education programs.

(iii) Providing services and educational case management in support of individual pupils in foster care, as necessary. This may include, but is not limited to, transition and school social work to support transition between schools or school districts.

(B) The primary goal of the collaboration required pursuant to this section shall be to minimize changes in school placement by supporting the implementation of Section 48850, subdivision (c) of Section 48853, and all related statutes that pertain to pupils in foster care. As necessary, and in accordance with Section 48853.5, the foster youth services coordinating program may pay for the cost of transportation to support this paragraph.

(i) If it is in the best interests of a pupil in foster care to transfer schools, the foster youth services coordinating program shall support local educational agencies in the implementation of Section 48853.5 and all related statutes pertaining to pupils in foster care, such as ensuring transfers are done at an educationally appropriate time, educational records are quickly transferred, appropriate partial credits are awarded, and the pupil in foster care is quickly enrolled in appropriate classes.

(ii) In determining the appropriate educational placement of foster youth pupils, local educational agencies, county welfare agencies, and county probation departments shall consult with an educational rights holder, caregiver, social worker, teacher, counselor, court-appointed special advocate, other stakeholders, and the pupil, as appropriate. The purpose of the consultation shall be to ensure all educational programmatic options are considered, including, but not limited to, English learner, special education, advanced placement, and career technical education.

(2) (A) If a school district annually certifies in writing to the foster youth services coordinating program that it is unable, using any other state, federal, local, or private funds, to provide tutoring, mentoring, and counseling, and if those services are established as needed and identified by the appropriate school district, in collaboration with the county child welfare agency or county probation department, the school district may enter into a temporary agreement with the foster youth services coordinating program to provide those services.

(B) It is the intent of the Legislature that local educational agencies include information provided in subparagraph (C) in their local control and accountability plans when describing their services for foster youth pupils as required pursuant to paragraph (10) of subdivision (d) of Section 52066.

(C) It is the intent of the Legislature that county offices of education, in the development and adoption of their local control

and accountability plans, include information specific to the transition requirement established pursuant to subdivision (b) of Section 42920.5 when describing the coordination of services for foster youth pupils required pursuant to paragraph (10) of subdivision (d) of Section 52066.

(3) (A) Policies and procedures to ensure educational placement for a foster youth pupil is not delayed, including, but not limited to, facilitating the establishment of an individualized education program in accordance with the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.), if applicable, the transfer of records, transcripts, and other relevant educational information.

(B) The plan shall also describe how the program will facilitate coordination with local postsecondary educational institutions, including, but not limited to, the California Community Colleges, the California State University, and the University of California, to ensure foster youth pupils meet admission requirements and access programs that support their matriculation needs.

(4) Policies and procedures for local educational agencies, county welfare agencies, and county probation departments to share all relevant educational information for foster youth to ensure the court has updated and accurate information as it makes decisions regarding foster youths.

(f) When developing the plan required pursuant to this section, the county office of education, or the consortium of county offices of education, shall consider the needs of specific age groups, pupils in foster care in specific geographic areas with the highest concentration of pupils in foster care, and pupils in foster care with the greatest academic need. A foster youth services coordinating program is encouraged to first provide services for pupils in foster care who reside in group homes, institutional settings, or other placements with pupils with high academic needs, as determined by the local Executive Advisory Council.

(g) (1) Each foster youth services coordinating program operated pursuant to this chapter shall establish a local interagency Executive Advisory Council.

(2) The Executive Advisory Council may include representatives from the county child welfare agency, the county probation department, local educational agencies, local postsecondary educational institutions, and community organizations. If possible,

the Executive Advisory Council may include, but is not limited to, foster youth, caregivers, educational rights holders, dependency attorneys, court representatives, court-appointed special advocates, and other interested stakeholders.

(3) The foster youth educational services coordinator shall be a permanent member of the Executive Advisory Council.

(4) The Executive Advisory Council shall regularly review the recommendations to the foster youth services plan required pursuant to subdivision (e).

SEC. 5. Section 42922 of the Education Code is repealed.

SEC. 6. Section 42923 of the Education Code is amended to read:

42923. (a) As a condition of receiving funds, each county office of education and consortium of county offices of education providing a foster youth services coordinating program pursuant to this chapter shall, by May 15 of each even-numbered year, report to the Superintendent any information as may be required by the Superintendent and as accessible to the Foster Youth Services Coordinating Program for purposes of subdivision (b).

(b) The Superintendent shall, by July 1 of each even-numbered year, report to the appropriate policy and fiscal committees of the Legislature and the Governor on the Foster Youth Services Coordinating Program. The report shall include, but not be limited to, the following:

(1) Recommendations regarding the effectiveness and continuation of the Foster Youth Services Coordinating Program.

(2) (A) To the extent possible, aggregate educational outcome data for each county in which there were at least 15 pupils in foster care who attended school in the county, with information on each of the following indicators:

(i) The number of pupils in foster care who attended school in the county.

(ii) The academic achievement of the pupils in foster care who attended school in the county, as determined by quantitative and qualitative data currently collected by program participants.

(iii) The number of pupils in foster care who were suspended or expelled.

(iv) The number of pupils in foster care who were placed in a juvenile hall, camp, ranch, or other county-operated juvenile detention facility because of an incident of juvenile delinquency.

(v) The truancy rates, attendance rates, and dropout rates for pupils in foster care.

(vi) (I) The number of pupils in foster care participating in foster youth services coordinating programs pursuant to this chapter who successfully transition to postsecondary education.

(II) The department shall collaborate with the Chancellor of the California Community Colleges and the Chancellor of the California State University to identify indicators that can be used to track access to postsecondary education for pupils in foster care participating in a foster youth services coordinating program pursuant to this chapter.

(vii) The amount of funds allocated and expended by each foster youth services coordinating program in the previous two fiscal years.

(B) In meeting the requirement of this section, the Superintendent shall utilize data, where appropriate, reported pursuant to Section 49085.

(3) A discussion of the meaning and implications of the indicators contained in paragraph (2).

(4) Information about how the program has supported the development and implementation of new local educational agency and county agency policies, practices, and programs aimed at improving the educational outcomes of pupils in foster care.

(5) Information about how the program has improved coordination of services between local educational agencies and county agencies, including the types of services provided to pupils in foster care.

SEC. 7. Section 42924 of the Education Code is amended to read:

42924. (a) The Foster Youth Services Coordinating Program shall not be operative unless funding is provided for this purpose in the annual Budget Act or another enacted statute.

(b) Any funds allocated to county offices of education or consortia of county offices of education for foster youth services coordinating programs pursuant to Section 42921 shall be used only for foster youth services coordinating programs and any funds not used by county offices of education for those services shall revert to the state General Fund.

SEC. 8. Section 42925 of the Education Code is repealed.

SEC. 9. Section 42925 is added to the Education Code, to read:

42925. (a) As a condition of receiving funds, each county office of education and consortium of county offices of education with a foster youth services coordinating program operated pursuant to this chapter shall, to the extent possible, develop and enter into a memorandum of understanding, contract, or formal agreement with the county child welfare agency pursuant to which foster youth services coordinating program funds shall be used, to the maximum extent possible, to leverage funds received pursuant to Title IV–E of the federal Social Security Act (42 U.S.C. Sec. 670 et seq.) and any other funds that may be used to specifically address the educational needs of pupils in foster care, or they shall explain in writing, annually, why a memorandum of understanding is not practical or feasible.

(b) To the extent possible, each foster youth services coordinating program is encouraged to consider leveraging other local funding opportunities to support the educational success of pupils in foster care.

SEC. 10. Section 42926 is added to the Education Code, to read:

42926. (a) The Superintendent shall administer the Foster Youth Services Coordinating Program and shall be responsible for all of the following:

- (1) Monitoring implementation of this chapter.
- (2) Facilitating the data sharing and reporting necessary to meet the requirements of Section 42923.
- (3) Reviewing a county office of education's local control and accountability plan for any information pursuant to subparagraphs (B) and (C) of paragraph (2) of subdivision (e) of Section 42921.

(b) The Superintendent, upon approval from the Department of Finance, shall use up to 5 percent of funding allocated for the Foster Youth Services Coordinating Program to contract with a local educational agency to administer the program established pursuant to this chapter, including, but not limited to, providing technical assistance to county offices of education and consortia of county offices of education as they implement this program.

SEC. 11. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to ensure continuity of critical supports and services for foster youth and to ensure that pupils in foster care are able to access services that provide this at-risk population with the opportunity to succeed in school, it is necessary that this act take effect immediately.

Approved _____, 2015

Governor